

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

**Leila Green Little, et al.,**

Plaintiffs,

v.

**Llano County, et al.,**

Defendants.

Case No. 1:22-cv-00424-RP

**RESPONSE TO PLAINTIFFS' MOTION TO COMPEL DEPOSITION  
OF JERRY DON MOSS AND MOTION FOR SANCTIONS**

The plaintiffs already deposed Jerry Don Moss on June 28, 2022. They cannot depose him a second time without first obtaining leave of court or a stipulation of the parties. *See* Fed. R. Civ. P. 30(a)(2)(A)(ii). The plaintiffs have not even sought, let alone obtained, the required leave or stipulation. Yet they went ahead and noticed Mr. Moss for a second deposition in disregard of Rule 30(a)(2). Mr. Moss had no obligation to appear for this unauthorized deposition.

The plaintiffs do not even cite Rule 30(a)(2) and address the second-deposition point only in a footnote. *See* Mot. to Compel, ECF No. 127, at 2 n.1. In this footnote, the plaintiffs appear to suggest that the parties' agreement of June 7, 2022, allowed them to depose Mr. Moss a second time without obtaining the leave of court or stipulation required by Rule 30(a)(2)—although the plaintiffs never actually come out and say this. *See id.*<sup>1</sup> The agreement of June 7, 2022, says nothing of the sort. Paragraph 4 of the joint agreement says:

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1. The plaintiffs' circumspect reliance on the joint agreement from June 7, 2022, represents a marked retreat from the stance they took in their motion to compel the deposition of Bonnie Wallace, where they had the temerity to tell this Court that "the parties previously agreed that Defendant Wallace's prior deposition, in

Obtaining this discovery does not prejudice Plaintiffs from later seeking additional discovery or deposing witnesses during the formal discovery phase of this litigation. By entering into this stipulation, the parties do not waive, and expressly reserve, the right to take all discovery to which they are entitled under the Federal Rules of Civil Procedure.

Joint Notice, ECF No. 39, at ¶ 4. There is nothing in that statement that even remotely implies that the plaintiffs can take repeat depositions of witnesses without a stipulation or leave of court, or that they can flout the requirements of Rule 30 when scheduling future depositions. On the contrary, the agreement allows discovery only to which the plaintiffs are “entitled under the Federal Rules of Civil Procedure.” The Federal Rules of Civil Procedure do not allow second depositions of witnesses absent a stipulation of the parties or leave of court.

For the plaintiffs to be seeking sanctions against the defendants for their own disregard of the rules is beyond the pale. The Court should deny out of hand the motion to compel and motion for sanctions.

Respectfully submitted.

DWAIN K. ROGERS  
Texas Bar No. 00788311  
County Attorney

MATTHEW L. RIENSTRA  
Texas Bar No. 16908020  
First Assistant County Attorney

Llano County Attorney's Office  
Llano County Courthouse  
801 Ford Street  
Llano, Texas 78643  
(325) 247-7733

/s/ Jonathan F. Mitchell  
JONATHAN F. MITCHELL  
Texas Bar No. 24075463  
Mitchell Law PLLC  
111 Congress Avenue, Suite 400  
Austin, Texas 78701  
(512) 686-3940 (phone)  
(512) 686-3941 (fax)  
jonathan@mitchell.law

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the expedited discovery phase of this proceeding, would not prejudice Plaintiffs' ability to take her deposition for a second time during the formal discovery phase.” Mot. to Compel, ECF No. 123, at 3. The plaintiffs make no such assertion in this go-around, but merely quote the language to which the parties agreed.

dwain.rogers@co.llano.tx.us  
matt.rienstra@co.llano.tx.us

Dated: March 30, 2023

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that on March 30, 2023, I served this document through CM/ECF  
upon:

ELLEN V. LEONIDA  
MATTHEW BORDEN  
J. NOAH HAGEY  
MAX BERNSTEIN  
ELLIS E. HERINGTON  
BraunHagey & Borden LLP  
351 California Street, 10th Floor  
San Francisco, CA 94104  
(415) 599-0210  
leonida@braunhagey.com  
borden@braunhagey.com  
hagey@braunhagey.com  
bernstein@braunhagey.com  
herington@braunhagey.com

RYAN A. BOTKIN  
KATHERINE P. CHIARELLO  
MARÍA AMELIA CALAF  
KAYNA STAVAST LEVY  
Wittliff | Cutter PLLC  
1209 Nueces Street  
Austin, Texas 78701  
(512) 960-4730 (phone)  
(512) 960-4869 (fax)  
ryan@wittliffcutter.com  
katherine@wittliffcutter.com  
mac@wittliffcutter.com  
kayna@wittliffcutter.com

*Counsel for Plaintiffs*

/s/ Jonathan F. Mitchell  
JONATHAN F. MITCHELL  
*Counsel for Defendants*